



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

November 27, 2017

Anne King Rudisill
A+ Pets
4738 Tallent Road
Morganton, NC 28655

NOTICE OF CIVIL PENALTY AND NOTICE OF WARNING

**Re: CIVIL PENALTY ASSESSMENT AND NOTICE OF WARNING FOR VIOLATIONS OF
TITLE 02 N.C. ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0201(e); .0206; .0207
(b)(1), (2) and (4) and .0210(c).**

AWS-CP-2017-14

Facility: A+ Pets
License No. 20445

Dear Ms. King Rudisill:

Pursuant to N.C. General Statute § 19A-40, I am issuing this notice to you as owner and operator of A+ Pets is hereby assessed a civil penalty of \$400.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N.C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N.C. General Statute § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statute § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings ("OAH"). Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Norris', with a stylized flourish at the end.

Patricia Norris, DVM MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, State Veterinarian
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION,
ANIMAL WELFARE SECTION

IN THE MATTER OF

ANNE KING RUDISILL
OPERATOR OF
A+ PETS
PET SHOP

) NOTICE OF VIOLATIONS
) ASSESSMENT OF CIVIL PENALTY
)
) FOR VIOLATIONS OF 02 N.C.
) ADMINISTRATIVE CODES (NCAC)
) 52J .0201(e); .0206; .0207(b)(1), (2) and (4);
) and .0210(c).

Acting pursuant to N.C. General Statute § 19A-40, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter, A+ Pets, owned and operated by Anne King Rudisill ("the pet shop") was a pet shop, licensed pursuant to N.C. General Statute § 19A-27.
2. On June 17, 2017, AWS Animal Health Technician Lindsey Harris ("Inspector Harris") conducted a facility inspection for the pet shop. During this facility inspection, Inspector Harris noted 6 animals to be without continuous access to water and that the water bowls were heavily soiled.
3. On September 25, 2017, AWS received a complaint concerning the pet shop. The complaint referenced ill and injured animals as well as animals not having access to water. Based on the information within this complaint, AWS opened an investigation.
4. As part of the AWS investigation Inspector Harris conducted a site visit on October 7, 2017. During this site visit by Inspector Harris, no injured animals were observed. Due to prior deficiencies in the pet shop's paperwork, Inspector Harris could not identify the alleged injured puppy noted by the complainant.
5. During the October 7, 2017 site visit, Inspector Harris observed 4 kittens that appeared to be ill. At the time of the site visit, the pet shop did not provide documentation indicating that these kittens had received veterinary care. Inspector Harris directed the owner of the pet shop to take the kittens for veterinary care and to provide the documentation of this care to AWS.
6. During the October 7, 2017 site visit, Inspector Harris noted that the puppies that had just been placed into the primary enclosures were very thirsty and they immediately drank most or all the water given to them. The water bowls had dried-on fecal debris.
7. Also, during the October 7, 2017 site visit, Inspector Harris noted that the puppies were placed into primary enclosures that had not been properly cleaned. In addition, dried feces and food waste were present in the facility, around the primary enclosures.
8. On October 8, 2017, Inspector Harris received, from the pet shop, veterinary medical records for the 4 kittens. These records were not clear as to which kittens were examined and treated.

9. Inspector Harris made multiple attempts via telephone calls to contact the veterinary clinic to speak with veterinary staff present during the examinations of the kittens. On October 23, 2017, Inspector Harris was successful in speaking with the practice manager for the veterinary clinic. The practice manager provided clarification of the veterinary medical records for the 4 kittens presented by Anne King Rudisill on October 7, 2017.
10. According to the information provided by the practice manager for the veterinary clinic and her clarification of the medical records, AWS discovered the following:
 - a. All 4 kittens were taken to the veterinary clinic on October 7, 2017;
 - b. All 4 kittens were weighed by the veterinary clinic;
 - c. The intake staff for the veterinary clinic noted signs of disease in all 4 kittens;
 - d. Only 2 kittens (Kittens 1 and 2) were examined by a veterinarian because Ms. King Rudisill declined examinations for Kittens 3 and 4;
 - e. Medication was only dispensed for 2 of the 4 kittens because only 2 were examined.

CONCLUSIONS

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, finds that the pet shop either by act or omission, violated the provisions of Title 02 North Carolina Administrative Codes 52J .0201(e); .0206; .0207(b)(1), (2) and (4) and .0210(c). Violation of 02 NCAC 52J .0210(c) occurred due to the failure of the pet shop to provide veterinary care for 2 of the 4 sick kittens observed on October 7, 2017. The violations of .0201(e), .0206 and .0207(b)(1), (2) and (4) occurred due to the unsanitary conditions of the primary enclosures, areas of the facility around the primary enclosures and the watering receptacles.

(See Appendix for text of cited General Statutes and Administrative Code)

CIVIL PENALTIES

As required by N.C. General Statute § 19A-40, in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Anne King Rudisill individually and DBA A+ Pets is hereby assessed a civil penalty for the following violations:

\$400.00 for 2 violations of Title 02 North Carolina Administrative Code 52J .0210(c)

\$400.00 TOTAL AMOUNT ASSESSED

NOTICE OF WARNING AND DEFICIENCY

As to the matter of the violations of 02 NCAC 52J .0201(e); .0206; and .0207(b)(1), (2) and (4), this letter serves as a written warning indicating in which respects the pet shop has violated these provisions.

Continued or future violation of the statutes or regulations referenced in this letter and the attached inspection reports will be considered a willful disregard or violation of the NC Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's license pursuant to NC General Statute § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NC General Statute § 19A-40.

11/27/2017

Date



Patricia Norris, DVM, MS
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

REFERENCED LAWS AND REGULATIONS

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the Animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0201 GENERAL

(e) Provisions shall be made for the daily removal and disposal of animal and food waste, bedding and debris from the housing facility in accordance with local ordinances, to assure facility will be maintained in a clean and sanitary manner.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005.

02 NCAC 52J .0206 WATERING

Animals shall have continuous access to fresh water, except as might otherwise be required to provide adequate veterinary care. Watering receptacles shall be durable and kept clean and sanitized. Damaged receptacles shall be replaced.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005.

02 NCAC 52J .0207 SANITATION

(b) Sanitation shall be as follows:

- (1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph (b)(3) of this Rule.
- (2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (b)(3) of this Rule if the same animal is housed in the same enclosure more than seven days.
- (4) Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0210 VETERINARY CARE

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005.